

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

DAVID RIBEIRO,
Plaintiff

VS.

C.A. NO. 04-30201-KPN

DAVID S. USHER, MARTIN
W. NAREY, PAUL M. KELLY,
JAMES D. BRIANT, MICHAEL
HIGGINS, DISTRICT ATTORNEY
WILLIAM BENNETT, HOLYOKE
POLICE DEPARTMENT, COMMONWEALTH
OF MASSACHUSETTS AND CITY OF
HOLYOKE,
Defendants

DEPOSITION of DAVID RIBEIRO, taken at the
request of the Defendants Higgins and Kelly,
pursuant to Rule 30 of the Federal Rules of Civil
Procedure, before Michael Gruber, a notary public
in and for the Commonwealth of Massachusetts, on
April 19, 2005, commencing at 10:25 a.m., at the
Hampden County House of Corrections, 629 Randall
Road, Ludlow, Massachusetts.

ORIGINAL

1 A P P E A R A N C E S:

2 FOR THE PLAINTIFF:

3 DAVID RIBEIRO
4 APPEARING PRO SE
5 Hampden County House of Corrections
6 629 Randall Road
7 Ludlow, Massachusetts 01056

8 FOR THE DEFENDANTS HIGGINS AND KELLY:

9 JOHN VIGLIOTTI, ESQ.
10 REARDON, JOYCE & AKERSON, ESQS.
11 392 Grove Street
12 Worcester, Massachusetts 01605

13 FOR THE DEFENDANT CITY OF HOLYOKE:

14 CHARLES LEVELLE, ESQ.
15 HOLYOKE LAW DEPARTMENT
16 563 Dwight Street
17 Holyoke, Massachusetts 01040

1 David Ribeiro, SWORN

2
3 EXAMINATION BY MR. VIGLIOTTI:

4
5 Q. Could you just please state your name
6 for the record?

7 A. David Ribeiro.

8 Q. Would you spell your last name?

9 A. R-i-b, as in "boy", e-i-r-o.

10 Q. Okay, Mr. Ribeiro. Just for some
11 background information, my name is John
12 Vigliotti. I'm an attorney representing two
13 officers in regards to a civil suit you filed
14 with the U.S. District Court, Western Division,
15 Springfield Division, in regards to David Ribeiro
16 pro se, yourself, against the City of Holyoke,
17 Holyoke Police Department and various officers.
18 Do you understand that?

19 A. Yes, sir.

20 Q. Okay. And I represent two of the
21 officers, Officer Paul Kelly and Lieutenant
22 Michael Higgins.

23 Also with me is Attorney Charles
24 Levelle, from the City of Holyoke Law Department.

1 Q. And on the second floor, can you just
2 describe the area? Is it like a big room?

3 A. No, it's like stairs going up,
4 entrance to the building, apartments on the
5 ground level, then there's a door going to the
6 second floor. It's, like, one apartment.

7 Q. Only one apartment on the second
8 floor?

9 A. On the landing. There was some other
10 apartments, I think, upstairs.

11 Q. Was there anything else up on the
12 landing? Did you notice anything else?

13 A. Uh-uh.

14 Q. A bike, trash, anything?

15 A. No.

16 Q. Do you remember there was nothing else
17 on that landing?

18 A. Not on that landing, where I was, no.

19 Q. After five minutes the officers came
20 in, they were at the bottom of the landing?

21 A. Yes, sir.

22 Q. And what happened?

23 A. Came in with guns drawn, told me to
24 show my hands.

1 Q. What did you do?

2 A. I complied.

3 Q. Did you walk down the landing?

4 A. When they ordered me to, yes, sir.

5 Q. Okay. You complied? You put your hands
6 up?

7 A. Yes, sir.

8 Q. Were you ^(sweating) spreading?

9 A. No.

10 Q. No?

11 A. (Shaking head.)

12 Q. Had you just run from somewhere? Did
13 you run up the stairs?

14 A. No. Walked up the stairs.

15 Q. You walked up the stairs?

16 A. (Nodding.)

17 Q. You indicated you were only there five
18 minutes?

19 A. Something like that, yeah.

20 Q. You weren't able to make the purchase
21 of marijuana?

22 A. No, when the cops came I just -- they
23 didn't want to give it to me when the cops were
24 surrounding the building.

1 them. I didn't --

2 Q. Only one came up the landing.

3 A. I think so, yeah.

4 Q. Only one came up the landing?

5 A. I think two of them came -- there was
6 so many, kind of --

7 Q. Do you remember how many came up to
8 you?

9 A. I think it was one or two.

10 Q. What happened when they came up the
11 landing and approached you?

12 A. They told me to -- they were going to
13 search me for any weapons and stuff.

14 Q. What happened at that point?

15 A. They took me down to the car. First
16 they arrested me, took me down to the car.

17 Q. Okay. Did they say anything to you?

18 A. Yeah, they asked me questions.

19 Q. What were they saying?

20 A. Like, "You just robbed someplace,"
21 this and that.

22 I said, "I didn't do nothing, I didn't
23 rob anybody."

24 So then they took me in the car --

1 first they searched the top landing and found a
2 gun and some stuff.

3 Q. How do you know --

4 A. Because they came out of the building
5 while I was handcuffed and showed it to me.
6 Started lashing out, "This is yours, this is
7 yours, right?"

8 "No, it ain't mine."

9 "Yeah, it is yours."

10 Q. Do you know who was saying that to
11 you?

12 A. (Shaking head.)

13 Q. Which officer?

14 A. I don't know his name. No name tags.

15 Q. Was there one officer talking to you?

16 A. (Nodding.)

17 Q. Do you remember what he looked like?

18 A. Caucasian. That's all I can remember.

19 Q. That's all you know?

20 A. (Nodding.)

21 Q. You don't remember hair color,
22 anything of that nature?

23 A. Brown.

24 Q. Brown hair? He was saying to you,

1 A. They didn't say anything, except I was
2 under arrest.

3 Q. That was it, that you were under
4 arrest.

5 Do you recall being Mirandized when
6 you were walking down the stairs?

7 A. No.

8 Q. And you know what Miranda rights are,
9 right?

10 A. Yes, sir.

11 Q. You're familiar with that term?

12 A. Yes, sir.

13 Q. What does that mean to you?

14 A. I have the right to remain silent.
15 Stuff like that.

16 Q. Okay. So you understand what Miranda
17 rights are.

18 A. Yes, sir.

19 Q. So nothing else was said other than,
20 "This stuff is yours," referring to the gun?

21 A. (Nodding.)

22 Q. What else was he referring to?

23 A. Found some clothes.

24 Q. Do you know what kind of clothes were

1 found?

2 A. According to the police report, a blue
3 jacket and a doo-rag or something.

4 Q. You said according to the police
5 report. Have you seen the police reports?

6 A. Yes.

7 Q. Did you read through the police
8 reports?

9 A. Yes, sir.

10 Q. Is that because you currently have
11 charges pending in the Hampden Superior Court?

12 A. Yes, sir.

13 Q. That involves the July 12, 2004 arrest
14 for armed robbery?

15 A. Yes, sir.

16 Q. That's the incident that we're talking
17 about?

18 A. Yes, sir.

19 Q. So that was all that was said. They
20 came down, they showed you a gun, a blue jacket?

21 A. (Nodding.)

22 Q. Anything else they showed you?

23 A. A red bandana, I think it was.

24 Q. A red bandana?

1 A. (Nodding.)

2 Q. What was that conversation?

3 A. Wasn't really a conversation. I told
4 him that I didn't do nothing, that it wasn't me.
5 That's what I was telling him.

6 Q. You kept telling him?

7 A. (Nodding.)

8 Q. Did he say anything to you?

9 A. No.

10 Q. So there was no conversation while you
11 were being transported?

12 A. No.

13 Q. The only thing that was said was that
14 you were saying it wasn't you?

15 A. That's what I said.

16 Q. Did you say anything else besides it
17 wasn't you?

18 A. No.

19 Q. That was it?

20 A. (Nodding.)

21 Q. How many times did you tell the
22 officer that?

23 A. Couple of times.

24 Q. Couple of times?

1 inside.

2 Q. You could see through the windows
3 clearly?

4 A. Yes, sir.

5 Q. There was no problem with your vision
6 because of the sun?

7 A. No, sir.

8 Q. Can you describe the individual who
9 said he wasn't sure? Do you know what he looked
10 like?

11 A. Dark-skinned guy.

12 Q. Height, weight, approximately? Do you
13 know?

14 A. I don't know. I didn't stand out the
15 car. Remained seated in the car, so I couldn't --
16 probably, like, five-eight, maybe.

17 Q. Do you know who he was?

18 A. No.

19 Q. Do you know his name?

20 A. I think it's Said Massoud (phonetic),
21 or something like that.

22 Q. How do you know that?

23 A. That's what it says in the police
24 report.

1 bandana that you were shown and a red doo-rag,
2 right?

3 A. I seen two red items. I'm not sure.

4 Q. So this was Officer Donze trying to do
5 this in the back of the cruiser?

6 A. Yes, sir.

7 Q. When you say you complained that you
8 were threatened by the officer, you're referring
9 to Officer Donze who did this?

10 A. Yes, sir.

11 Q. He's the one you allege did this?

12 A. Yes, sir.

13 Q. Did any other officer say anything?

14 A. No.

15 Q. So in your Complaint when you claim
16 that you were threatened by an officer in an
17 attempt to put a -- I think you described it as a
18 mask --

19 A. I think so. I'm not sure.

20 Q. Is that what you --

21 A. Something red, yeah.

22 Q. Okay.

23 -- on you, that was Officer Donze you
24 were indicating --

1 A. Yes, sir.

2 Q. -- who did that?

3 A. Yes, sir.

4 Q. It wasn't Officer Paul Kelly.

5 A. No.

6 Q. No?

7 A. I'm really not --

8 Q. You really had no interaction with
9 Officer Kelly?

10 A. I'm not sure.

11 Q. Do you know who Officer Kelly is?

12 A. No.

13 Q. Do you remember an Officer Kelly
14 saying anything to you?

15 A. No.

16 Q. Do you remember talking to an Officer
17 Kelly?

18 A. No.

19 Q. Do you remember him threatening you in
20 any way?

21 A. No.

22 Q. Do you remember -- he wasn't the one
23 that used any racial slurs to you?

24 A. (Shaking head.)

1 Q. That's not the officer you're
2 referring to when you say --

3 A. Not Paul Kelly.

4 Q. Okay. So no racial slurs were uttered
5 by Officer Kelly?

6 A. No.

7 Q. He was just at the scene?

8 A. I guess. I'm not sure.

9 Q. You're not even sure if Officer Kelly
10 was there?

11 A. I don't know, I don't know his name. I
12 just know Officer Donze --

13 Q. You put Officer Kelly in the
14 Complaint. You understand that, correct?

15 A. Yeah.

16 Q. As far as you know, Officer Kelly had
17 little involvement in your arrest? Is that your
18 understanding, if any?

19 A. I don't know.

20 Q. You don't recall speaking to Officer
21 Kelly?

22 A. No.

23 Q. You don't recall Officer Kelly saying
24 anything to you personally?

1 Donze trying to put a bandana on you, what
2 happened next? After that 30 seconds, that ended,
3 was anything else said to you?

4 A. Just what I told you was said to me,
5 and that was it.

6 Q. And that was it.

7 A. (Nodding.)

8 Q. Those two sentences is all he said to
9 you?

10 A. Mm-hmm.

11 Q. And that was it?

12 A. Yes, sir.

13 Q. What happened at that point?

14 A. Took me to the police station.

15 Q. They took you to the police station?

16 A. Yes, sir.

17 Q. Before they brought you were you
18 saying anything to Officer Donze when he was
19 trying to put this, allegedly trying to put this
20 bandana on you?

21 A. I was saying what's he doing, it
22 wasn't me, what's he doing.

23 Q. You kept saying that? Were you yelling
24 or screaming?

1 A. (Nodding.)

2 Q. Which officer, Officer Donze?

3 A. Donze, yeah.

4 Q. Is that who you're talking about?

5 A. Yes, sir.

6 Q. Okay. So when you indicate the
7 officers, you're not talking about all the
8 officers. You're talking about Donze in
9 particular?

10 A. Yes, sir.

11 Q. So it wasn't Officer Kelly. You don't
12 even remember him being there, correct?

13 A. I don't know his name. I can't put the
14 face with the name.

15 Q. But you don't remember any other
16 officer getting angry with you.

17 A. No.

18 Q. No one else, correct?

19 A. No.

20 Q. Okay. And no other officer threatened
21 you with violence?

22 A. No, sir.

23 Q. No other officer angrily said anything
24 to you that you recall?